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Subchapter 60A CSRS**Part 60A1 General Information****Section 60A1.1-1 Overview**

A. Introduction

This Chapter covers disability retirement. A disability retirement annuity is a benefit provided to protect an employee who is no longer able to provide useful and efficient service in his or her current grade or pay level because of a medical condition.

Generally, the interests of both the Government and the individual are served if an employee remains gainfully employed as long as he or she can provide useful and efficient service without endangering himself or herself, others, or Government property. Disability retirement should be a last resort and is appropriate only when reasonable efforts to preserve the person's employment have failed.

If attempts to retain the employee in a productive capacity are unsuccessful, and the employee decides to apply for disability retirement, the agency must assist the employee in filing an application with OPM. (This does not mean that the agency has an obligation to support allowance of the application; indeed, if the agency believes that the criteria for allowance are not met, it should document the basis for that conclusion in the appropriate portion of the application package it submits to OPM.) Even though an employee separated for more than 31 days is responsible for filing the disability retirement application directly with OPM, the agency must fulfill its responsibility by promptly providing the needed documentation in its possession.

B. Topics Covered

This subchapter covers --

- The general statutory requirements an employee must meet to be eligible for a disability retirement annuity;
- The criteria that must be documented to establish eligibility for a disability retirement;
- Who may file the application for disability retirement and when the application must be filed;
- The procedures the employee and agency must follow when submitting an application for disability retirement to OPM;

Section 60A1.1-1 Overview (Cont.)

- B. Topics Covered (Cont.)**
- The rules that apply to the withdrawal of an application for disability retirement;
 - The criteria OPM considers in making a determination to approve or disapprove an application for disability retirement and the reconsideration/appeal procedures to use if the application is disapproved; and
 - The requirements an individual must meet to continue receiving a disability retirement annuity.
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- C. Organization of Subchapter**
- The CSRS subchapter has nine parts:

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NOTE: Subchapter 60B about disability retirement under FERS begins on page 52.

Section 60A1.1-1 Overview (Cont.)

D. Statement of Authority	This subchapter and its contents are based on the laws and regulations cited below.
	• United States Code: 5 U.S.C. 8337
	• Code of Federal Regulations: 5 CFR Part 831

Section 60A1.1-2 Definitions

A. Useful and Efficient Service	"Useful and efficient service" means (1) either acceptable performance of the critical or essential elements of the position or the ability to perform at that level; and (2) satisfactory conduct and attendance.
B. Service Deficiency	"Service deficiency" or "deficient service" means that the employee's performance, attendance, or conduct is less than fully successful, and, if uncorrected, warrants action to deny a pay increase, reduce the grade or remove the employee from his or her position. (See 5 CFR Parts 432, 531-D or 752.)
C. Commuting Area	"Commuting area," as it is used in this Chapter, has the same meaning as for discontinued service retirement. It means the geographic area that usually constitutes one area for employment purposes. It includes any population center (or two or more neighboring ones) and the surrounding localities in which people live and reasonably can be expected to travel back and forth daily in their usual employment.
D. Tenure	"Tenure" means the same type of appointment as currently held by the employee. For most employees, this will mean a career appointment in the competitive service, since this is the type of appointment they currently have. For excepted service employees, it means another excepted service position with the same expectation of continued employment as they currently have.
E. Vacant Position	"Vacant position" means a position of the same tenure (for example, career, temporary) in the same commuting area, which is not occupied, and which is full time. If the employee's current position is less than full time, the vacant position must have a work schedule of no less time than that of the current position.
F. Same Grade or Pay Level	<p>"Same grade or pay level" means:</p> <ul style="list-style-type: none">• In regard to a vacant position within the same pay system as the position the employee presently occupies, the same grade and an equivalent amount of basic pay as defined in 5 U.S.C. 8331(3);• In regard to a vacant position in another pay system, a representative rate (as defined in 5 CFR 532.401) at least equal to the representative rate of the employee's current position

Section 60A1.1-2 Definitions (Cont.)

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| G. Qualified for Reassignment | <p>"Qualified for reassignment" means able to meet the minimum requirements for the grade and series of the vacant position in question.</p> <p>For this purpose, under 5 U.S.C. 8337(a), an employee of the United States Postal Service is not considered qualified for a reassignment if the reassignment is to a position in a different craft or is inconsistent with the terms of a collective bargaining agreement covering the employee.</p> |
| H. Disabled/ Disability | <p>"Disabled" or "disability" mean unable or inability to render useful and efficient service because of disease or injury --</p> <ul style="list-style-type: none"> • In the employee's current position; or • In a vacant position in the same agency at the same grade or pay level for which the individual is qualified for reassignment. |
| I. Physician | <p>"Physician" means a licensed Doctor of Medicine or Doctor of Osteopathy, or a physician who is serving on active duty in the uniformed services and is designated by the uniformed service to conduct examinations under Part 339 of title 5, Code of Federal Regulations (Medical Determinations Related To Employability).</p> |
| J. Medical Documentation | <p>"Medical documentation" or documentation of a medical condition" mean a statement, submitted from a physician (or other state licensed medical practitioner providing service within the scope of his or her license), that provides the following information, or the parts identified by the agency as necessary and relevant:</p> <ol style="list-style-type: none"> 1. The history of the specific medical condition(s), including references to findings from previous examinations, treatment, and responses to treatment; 2. Clinical findings from the most recent medical evaluation, including any of the following that have been obtained: findings of a physical examination; results of laboratory tests; X-rays; EKG's and other special evaluations or diagnostic procedures; and, in the case of psychiatric disease, the findings of a mental status examination and the results of psychological tests; |

Section 60A1.1-2 Definitions (Cont.)

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| J. Medical Documentation (Cont.) | <ol style="list-style-type: none">3. Assessment of the current clinical status and plans for future treatment;4. Diagnosis;5. An estimate of the expected date of full or partial recovery;6. An explanation of the effect of the medical condition on life activities both on and off the job;7. Narrative explanation of the medical basis for any conclusion that the medical condition has not become static or well stabilized;8. Narrative explanation of the medical basis for any conclusion that indicates the likelihood that the individual is, or is not, expected to experience sudden or subtle incapacitation as a result of the medical condition;9. Narrative explanation of the medical basis for any conclusion that duty restrictions or accommodations are or are not warranted and, if they are, an explanation of their therapeutic or risk avoiding value and the nature of any similar restrictions or accommodations recommended for activities not related to work; and10. Narrative explanation of the medical basis for any conclusion that indicates the likelihood that the individual is, or is not, expected to suffer injury or harm by carrying out, with or without accommodation, the tasks or duties of a position for which he or she is assigned or qualified. |
| K. Examination/ Reexamination | <hr/> <p>"Examination" and "reexamination" mean an evaluation of evidentiary material related to the question of disability. Unless OPM exercises its choice of physician, the cost of providing medical documentation rests with the employee or disability annuitant, who must provide any information necessary to OPM's evaluation.</p> <hr/> |

Section 60A1.1-2 Definitions (Cont.)

L. Income From Wages and/or Self-Employment	<p>"Income from wages and/or self-employment" is defined by regulation, but generally means --</p> <ol style="list-style-type: none">1. Money or property received by a disability annuitant as consideration for or in reward of personal services or a work product;2. Profit from a business (sole proprietorship, partnership, or corporation) wholly or partly owned by the disability annuitant and in which the disability annuitant has an active role in managing; and3. For a disability annuitant reemployed by the Federal Government, any amount offset or deducted under the provisions of 5 U.S.C. 8344 or 8468. <p>NOTE: Income is deemed earned in the calendar year in which it is received, or could have been received had the receipt thereof not been deferred with the consent of the annuitant.</p>
M. Rate Last Payable	<hr/> <p>"Rate last payable" means the rate of annuity to which the annuitant was entitled on the date his or her disability annuity was most recently discontinued.</p> <hr/>

Section 60A1.1-3 General Eligibility Requirements

- A. General** An employee must meet the following general statutory requirements to be eligible for a disability retirement annuity:
1. The employee must be in a position covered by CSRS; and
 2. The employee must meet the minimum civilian service requirement.
- B. Employee in a Position Covered by CSRS** The employee must have become disabled while serving in a position subject to CSRS.
- C. Minimum Civilian Service** An employee must have at least 5 years of creditable civilian service to be eligible for a disability retirement.

Creditable civilian service for this purpose includes:

- Service for which full CSRS deductions were taken (even if CSRS deductions were refunded and not redeposited);
- Service for which full Social Security taxes and reduced CSRS deductions were taken (even if CSRS deductions were refunded and not redeposited); and
- Nondeduction service (for example, temporary or intermittent service), whether or not a deposit for such service is made.

NOTE: See Chapter 20, Creditable Civilian Service, for a full description of creditable service.

Part 60A2 Disability Criteria**Section 60A2.1-1 Introduction**

A. General

Once the agency determines that the employee meets the general statutory requirements for disability retirement (see section 60A1.1-3 above), the agency and employee must then document that the employee satisfied the disability criteria required by regulation. The criteria are listed below and discussed in greater detail in the section that follow.

B. Disability Criteria

The following criteria must be documented before an employee is eligible for disability retirement benefits:

- A deficiency in service with respect to performance, attendance or conduct, or, in the absence of any actual service deficiency, a showing that the medical condition is incompatible with either useful service or retention in the position (see section 60A2.1-2);
 - A medical condition that is defined as a health impairment resulting from disease or injury, including psychiatric disease (see section 60A2.1-3);
 - A relationship between the service deficiency and the medical condition such that the medical condition has caused the service deficiency (see section 60A2.1-3);
 - The duration of the medical condition, both past and expected, and a showing that the condition, in all probability, will continue for at least 1 year from the date the application for disability retirement has been filed (see section 60A2.1-3);
 - The inability of the employing agency to reasonably accommodate the employee's medical condition (see section 60A2.1-4); and,
 - The agency's consideration of the employee for reassignment to any vacant position within the employing agency and commuting area, at the same grade or pay level, for which the employee is qualified (see section 60A2.1-5).
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Section 60A2.1-2 Documentation of Service Deficiency

A. General

An agency's decision to support or not support an application for disability retirement is in part dependent on the agency's assessment of the basis for the employee's service deficiency.

1. An employee may have a service deficiency because medical restrictions prevent him or her from performing critical or essential elements of the job.
 2. An employee may have a service deficiency because he or she is not at work or is not performing all essential duties of the position.
 3. An employee may have a service deficiency because of documented instances of poor performance or conduct.
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B. Restricted Activity

An employee may be restricted from performing certain tasks because of the risk of sudden or subtle incapacitation or further health impairment that would be caused by the employee's continued performance of the tasks. For example, an employee may be restricted from climbing stairs or carrying even very light loads because of a heart condition. However, the medical basis for the imposition of medical restrictions must be clearly stated, and be such that they are consistent with generally accepted medical practice and that other physicians given the same medical finding would be likely to impose the same or similar restrictions.

When an application for disability retirement is based on the employee's warranted restriction from performing critical or essential job tasks, or from being at work, there is often no record of a decline in actual performance. In such cases, it is unnecessary to retain the employee in a full-time duty status until a record of unacceptable performance is established. The employee's service is less than fully successful because of his or her inability to fulfill the requirements of his or her position.

C. Absence

An application for disability retirement may be based on an employee's absence(s). However, a history of repeated or extensive absence(s) alone is an insufficient basis for the approval of an application for disability retirement. The agency needs to state how the employee's absence(s) affect accomplishment of its mission.

D. Unacceptable Conduct

If the basis of the application for disability retirement is unacceptable conduct, the agency must describe specific instances of it. Any information concerning disciplinary actions based on conduct must be provided, including warnings, reprimands, and adverse personnel actions.

Section 60A2.1-2 Documentation of Service Deficiency (Cont.)

E. Documentation Required for Employees Covered by 5 CFR Part 430	<p>For employees who are covered by 5 CFR Part 430 (Performance Appraisal), the agency must --</p> <ul style="list-style-type: none">• Provide a copy of the employee's position description;• Provide a copy of the employee's performance standards and latest performance appraisal of record;• Identify critical elements for which performance is deficient; and• Describe specific instances of deficient performance. <p>If the performance appraisal of record reflected fully successful performance, the agency must document specific instances of less than successful performance since the date of the performance appraisal.</p>
F. Employees Not Covered by 5 CFR Part 430	<p>For employees who are not covered by 5 CFR Part 430, the agency must provide a statement describing specific instances of less than fully successful performance. Without this documentation, OPM will not allow the disability claim.</p>

Section 60A2.1-3 Documentation of Medical Condition

A. General

Once a service deficiency is found and documented, the agency must next determine whether the service deficiency is due to a medical condition. A disability retirement is appropriate only when an employee's service is less than fully successful because of a medical condition.

A medical condition is defined as either a disease or injury, including psychiatric disease. It makes no difference whether the medical condition results from on-the-job or off-the-job causes. However, the law requires that the employee be disabled for useful and efficient service, that is, be unable to meet the demands of the job or to meet the conditions of employment, because of the medical condition.

Thus, when an agency supports an employee's application for disability retirement, it must have sufficient medical documentation to support its conclusions that the employee has a medical condition that precludes useful and efficient service, that the condition is likely to continue for at least 1 year, and that the employee cannot be retained through reasonable accommodation and/or reassignment to a vacant position.

B. Employee Must Provide Medical Evidence

The employee is responsible for furnishing sufficient medical evidence to support his or her application for disability retirement. The employee's medical documentation will normally be information from his or her personal physician. If an agency-provided examination is conducted, the result of the examination must be furnished with the application.

C. Review of Medical Evidence by Physician

Whenever possible, the agency should have the medical documentation assessed by, or in coordination with, a physician to ensure that --

- The diagnostic or clinical impressions are justified in accordance with established diagnostic criteria; and
- The conclusions and recommendations are consistent with generally accepted medical principles and practice.

If this assessment results in a conclusion that the employee is suffering from a medical condition that has caused a service deficiency, the agency's next step is to identify possible alternatives to keep the employee in a productive capacity. (See sections 60A2.1-4 and 60A2.1-5 below.)

Section 60A2.1-3 Documentation of Medical Condition (Cont.)

D. Medical Documentation: Comments	<p>In reference to the definition of "Medical Documentation" in section 60A1.1-2, paragraph J --</p> <ol style="list-style-type: none"> Items 1 through 5 are all points of clinical information in a physician's records and customarily included in a physician's report to another physician. Items 6 through 10 relate the medical condition to both the employee's off-the-job activities of daily living and to the demands of the employee's position, and to information needed to make personnel decisions. <p>Information on activities not related to work is included because any restrictions placed on an employee's work activities are suspect if the same restrictions are not also placed on the employee's off-duty activities. This medical information can normally be provided from the physician's records <u>without necessity for a new medical evaluation.</u></p>
E. Effect of Progressive Disease	<p>An application for disability retirement may be based on the progression of a disease that causes continued employment to be incompatible with the employee's condition. This is also true if the employee had the disease at the time of entry into the position from which retirement is sought, provided the employee was able to perform successfully at that time, and has subsequently become disabled as a result of progression of the disease.</p>
F. Communicable Disease	<p>Diagnosis alone of a progressive, potentially incapacitating, or perhaps fatal, disease is insufficient. However, when it can be demonstrated that the employee is currently precluded from rendering useful and efficient service and that the employee is unable to do so within a reasonable time, an <u>application for disability retirement is appropriate.</u></p> <p>An application for disability retirement may be submitted, in very unusual situations, when an employee is restricted from performing certain activities or from being at work at all to avoid transmission of a communicable disease.</p>
G. Risk of Injury	<p>If the basis for the application is risk of injury or further health impairment, the documentation must identify and explain the specific risk that arises from the existence of the medical condition and further explain why the risk is unacceptable.</p>

Section 60A2.1-3 Documentation of Medical Condition (Cont.)

H. Employee Refusal of Medical Treatment	Disability retirement will not be approved when persistence of the medical condition that has caused the employee's service deficiency results from his or her failure or refusal to accept available non-invasive treatment that he or she would ordinarily be expected to accept in support of activities of daily life, unless acceptance of treatment conflicts with the employee's religious beliefs.
I. Recovery Expected Within 1 Year	<p>Normally, OPM will not approve an application for disability retirement where there is reasonable expectation that recovery will occur within 1 year after application for disability retirement is filed. A disability annuity is appropriate only when all the criteria have been met.</p> <p>When the medical condition is of recent or acute onset, it is essential to determine whether or not the condition has stabilized and whether or not conclusions about prognosis and expected recovery are warranted. When the condition is expected to stabilize within 1 year, and there is a clinical reason to believe that a significant degree of recovery is likely, there is no basis for a disability retirement.</p>
J. Stable Medical Condition Predating Service Deficiency	A longstanding, stable, medical condition that predates a recently acquired service deficiency, standing alone, probably will not meet the criteria for disability retirement.
K. Agency Obligation When Medical Documentation Insufficient	<p>The agency has no further obligation under the disability retirement program to support an employee's disability retirement application or to attempt to retain an employee if the agency's review of the medical documentation does NOT support a conclusion that --</p> <ul style="list-style-type: none"> • The service deficiency has been caused by the medical condition; or • The medical condition warrants restriction from critical tasks or duties of the position. <p>NOTE: Since the definition of "medical condition" in the disability retirement program is narrower than the definition of "handicapped employee" for purposes of selective placement, the agency may still have an obligation to make reasonable efforts to accommodate a handicapped employee. (See section 60A2.1-4 below.)</p>

Section 60A2.1-3 Documentation of Medical Condition (Cont.)

- L. Detailed Medical History Required** OPM assumes that the individual's health was good, at some previous time, and his or her service was fully successful. Therefore, the medical history must be detailed enough to provide an understanding of health changes that have occurred and the specific effect that these changes may have had on the individual's service.

Unless the medical condition or the employee's duties have changed since the service was last reported as fully successful, the medical condition, in most instances, cannot be solely responsible for a present service deficiency. Likewise, if service was deficient prior to the onset of the medical condition, the medical condition alone probably would not be the cause of the service deficiency.

Section 60A2.1-4 Accommodation

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| A. Policy | Federal policy regarding the employment of handicapped persons advocates that Federal agencies attempt to retain disabled employees by accommodating their disability. Therefore, the agency must exhaust all reasonable efforts to alleviate any service deficiencies through accommodation before it counsels an employee to seek disability retirement or supports an employee's request for disability retirement. |
| B. Reasonable Accommodation | "Reasonable accommodation" is any action that the agency would be obligated to take under the Rehabilitation Act of 1973 (29 U.S.C. §§701 et seq). An accommodation is an adjustment made to a job and/or work environment that enables a qualified handicapped person to perform the duties of that position. Reasonable accommodation obligations apply both to the employee's current position and to any vacant position to which the employee could be reassigned. (See section 60A2.1-5 below for a discussion of reassignment.) |
| C. Examples of Reasonable Accommodation | Reasonable accommodations may include, but are not limited to -- <ul style="list-style-type: none"> • Modifying the work site; • Adjusting the work schedule; • Restructuring the job; • Acquiring or modifying equipment or devices; • Providing interpreters, readers, or personal assistants; and • Reassigning or retraining the employee. |
| D. Job Analysis | If the agency has prepared a job analysis for accommodation purposes, the analysis should be submitted to OPM, together with the application and other supporting documents. |
| E. Notice to OPM of Successful Accommodation | If the agency is successful in accommodating the employee after the disability retirement application has been forwarded to OPM, the agency must immediately notify OPM of the successful accommodation. |
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Section 60A2.1-5 Reassignment

A. Policy

In addition to accommodation (section 60A2.1-4), Federal policy regarding the employment of handicapped persons dictates that agencies make every effort to retain the services of these employees through reassignment to other available positions.

Thus, when an employee initiates an application for disability retirement, the employing agency must review all vacant positions under its jurisdiction, at the same grade or pay level and tenure in the commuting area, to determine if the employee meets the minimum qualification standards for any vacant position.

NOTE: An agency is not obligated to create a position for a disabled employee.

B. When Employee Deemed Qualified for Reassignment

For disability retirement purposes, an employee is deemed "qualified for reassignment" when he or she meets the minimum requirements for the grade and series of the vacant position in question. (See section 60A1.1-2, paragraph G.)

In considering qualifications for another position, the agency may consider requirements for mobility or travel that are precluded by the employee's medical condition.

C. Time Limit on Search for Vacant Position

OPM prescribes no minimum time for which an employee must be given special consideration for placement in a vacant position since a reasonable attempt to place an employee depends on the facts in each individual case.

Nevertheless, consideration for placement should continue at least until the agency receives OPM's notification that the disability claim has been allowed. Furthermore, placement is limited only by agency authority and can occur after OPM's allowance of the application.

D. When Agency Identifies Vacant Position

1. If the agency identifies an available vacant position for which the employee is minimally qualified, but has questions concerning his or her knowledge, skill, or ability to perform successfully, the agency should first detail the employee to the position.
2. In the event the agency is successful in reassigning the employee (with or without first detailing him or her), the application for disability retirement and supporting documents should be returned to the employee since there is no eligibility for disability retirement when there is a qualifying vacancy available.

Section 60A2.1-5 Reassignment (Cont.)

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| D. When Agency Identifies Vacant Position (Cont.) | 3. If, despite the agency's decision that it has successfully accommodated the employee's disability, the employee insists that the application be sent to OPM for a determination, the agency should submit the application and all supporting documents to OPM, together with its opposition to the application stating the accommodation efforts provided, or the reasons the agency believes that no accommodation or reassignment efforts are needed. |
| E. Employee Refusal to Accept Vacant Position | <p>If the agency locates one or more vacant positions at the same grade or pay level and in the same commuting area for which the employee is qualified for reassignment, but the employee refuses reassignment, the employee's refusal terminates the agency's obligation to identify any other vacant position as an alternative to disability retirement.</p> <p>The agency should notify OPM of the employee's refusal, provide any evidence the employee submitted in support of his or her refusal, and then proceed with whatever personnel action is appropriate, since OPM will not approve an application for benefits when any employee has refused a reassignment for which he or she is qualified.</p> |
| F. Agency Decision Not to Place Employee in Vacant Position | <p>1. Under very limited circumstances, the agency may decide not to offer a vacant position to an employee who meets the qualification standards. Appropriate situations include but are not limited to--</p> <ul style="list-style-type: none"> • Selection of another employee with a higher priority placement right; • Nonselection because the medical condition precludes performance in the available vacant position; • Nonselection because one or more critical elements of the new position are the same as those the employee performs unsuccessfully in the present position; • Non selection because a disciplinary removal action has been initiated; or • An agency decision not to recruit internally or externally to fill the position. <p>2. If an agency chooses not to reassign the employee, the agency must identify the positions for which the employee is qualified and give the reasons why reassignment was not effected.</p> |

Section 60A2.1-5 Reassignment (Cont.)

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| G. Competing Applicants for Vacant Position | In the case of competing priorities among employees and disability applicants for the same position (for example, another employee has a high priority placement right), the agency should follow its own internal procedures in making a selection. However, an agency may not decline to place an employee in a vacancy solely because better qualified candidates are available. |
| H. Placement in Lower Grade or Pay Level | <p>Where possible, agencies are encouraged to attempt to place an employee in a position at a lower grade or pay level to retain the employee in a productive capacity. Pay retention may be offered at agency discretion when doing so would be of mutual benefit to the agency and employee.</p> <p>Appropriate circumstances may exist when the employee can be placed in a new career ladder, when the employee can be provided training that would result in repromotion, or when the employee is expected to recover from a disabling condition. (The usual merit competitive procedures described in 5 CFR Part 335, or equivalent procedures for an employee not covered by these procedures, apply.)</p> <p>An employee may decline an offer of a position at a lower grade or pay level, a position of lesser tenure, or a position in another agency or commuting area, without affecting his or her eligibility for disability retirement.</p> |
| I. Acceptance of Position at Lower Grade or Pay Level | <p>The employee must be counseled that voluntary acceptance of a position at a lower grade or pay level terminates consideration for disability retirement. Likewise, placement in a position at a lower grade or pay level under adverse action or equivalent procedures prior to the submission of an application to OPM precludes consideration of the retirement application.</p> <p>Consequently, the agency should obtain a written statement from the employee to show that he or she was aware of the effect the voluntary acceptance of a position at a lower grade or pay level would have on his or her application for disability retirement.</p> <p>NOTE: After an application is filed with OPM, involuntary placement in a position at a lower grade or pay level under Parts 351, 431, or 752 of OPM's regulations (or equivalent procedures for an employee not covered by these procedures) does not affect consideration of the application.</p> |
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Section 60A2.1-5 Reassignment (Cont.)

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| J. Positions in
Other Federal
Agencies | Agencies are strongly encouraged to provide assistance to employees in locating positions for which they are qualified in other Federal facilities in the commuting area. |
| K. Notice to OPM of
Successful
Reassignment | Notice of successful placement should be promptly communicated to OPM, if the disability application has already been submitted to OPM. |
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Part 60A3 Filing the Application**Section 60A3.1-1 Application Filed by Employee or Employee Representative**

A. General Rule

It is always preferable that the employee seeking benefits personally, with the agency's assistance, complete the application for retirement.

On occasion, however, the employee may, due to circumstances beyond his or her control, be unable to complete and file the disability retirement claim form. In such circumstances, some other legally responsible person may complete and submit the claim form on behalf of the employee. This person may be a court-appointed guardian, a spouse, or other member of the immediate family who has assumed responsibility for the employee.

B. Immediate Family Members

Immediate family members, for filing purposes, are spouses, parents, sisters and brothers, or adult children who are responsible for the care and maintenance of the employee.

NOTE 1: If the whereabouts of the spouse is known or is known in the agency's files, the spouse should be contacted. It is preferable that this contact be made with the consent of the employee. But, because of the nature of the employee's disease or injury, he or she may not be able to consent. Nonetheless, the agency should proceed with its efforts to locate a family member to file the disability application on the employee's behalf.

NOTE 2: A legal spouse, though absent from the employee's residence, should not be summarily excluded from consideration as a family member who can file the application on behalf of the employee.

C. Next-of-Kin

Under limited circumstances, other next-of-kin of the employee also may apply for disability retirement on behalf of the employee as long as they are willing to accept responsibility for the care and maintenance of the employee.

The agency should assess the situation and decide whether the employee's interests are served by allowing a relative who is not an immediate family member, as defined above, to file the disability application on behalf of the employee.

Section 60A3.1-1 Application Filed by Employee or Employee Representative (Cont.)

- D. Agency Efforts to Locate Family** The agency must make a reasonable effort to locate a family member when the names and addresses of family members are not in the agency records. The employee's immediate supervisor, former supervisors, and present and past co-workers may be contacted. They may know family members who may be willing to file the application for disability retirement on behalf of the employee.
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- E. Inability to Locate Family Member** If efforts to locate a family member to file the disability retirement application on behalf of the employee are unsuccessful and the agency ultimately has to initiate the application, a written summary of the agency's efforts should be included in the agency-filed disability package that is submitted to OPM (see section 60A3.1-2).
- The summary should, at a minimum, include the name, mailing address, telephone number, and kinship of each person contacted. OPM may need to initiate some further correspondence.
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- F. Court-Appointed Guardian** A court-appointed guardian or personal representative may apply for disability retirement on behalf of the employee who is unable to file, regardless of kinship.
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- G. Attorney** An attorney may not file a disability retirement application on behalf of an employee unless doing so in some other capacity, such as a court-appointed guardian.
- An employee who is capable of making a decision to seek private, legal representation is capable of other decisions. The employee's affirmative selection of a legal representative demonstrates the employee's ability to act in his or her own interest, and will be accepted by OPM as a demonstration of the employee's ability to file an application for disability retirement.
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- H. When Employee is Institutionalized** If the employee is institutionalized, the director of the institution or a designee may file a disability application on behalf of the employee. This is permitted, however, only in those cases where family members are unavailable or unwilling to file the application and there is no one else who is responsible for the employee's care and maintenance.

Section 60A3.1-1 Application Filed by Employee or Employee Representative (Cont.)

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| H. When Employee is Institutionalized (Cont.) | <p>It may not be assumed that just because the employee is institutionalized he or she is unable to file a disability application. The employee's debilitating medical condition may be a physical impediment, and may be such that there are periods when he or she recovered to the point of being capable of filing a disability retirement application. Therefore, before the agency or another person can apply for disability retirement on behalf of the employee, the agency must determine that the employee is unable to file.</p> <p>However, if the issue of the employee's competence has been adjudicated by a court of competent jurisdiction or by a licensed state mental institution, <u>OPM will accept that determination as conclusive.</u></p> |
| I. Effect of Applying for Retirement on Other Agency Actions | <p>The actual filing or the possibility of filing an application for disability retirement should not be viewed as requiring the agency to delay taking an action under Part 351, 432, or 752 of OPM's regulations (or equivalent procedures for an employee not covered by these procedures) or as cause to otherwise frustrate the efficient management of the agency's personnel resources.</p> |
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Section 60A3.1-2 Application Filed by Agency

A. General Rule

There are instances where the employing agency has an obligation to file an application for disability retirement on behalf of an employee. The agency must file a disability application when **ALL** of the following conditions exist:

- The agency has medical documentation that shows that a disease or an injury prevents the employee from performing successfully in his or her current position, or in any other available vacant position in the agency, at the same grade or pay level and tenure in the commuting area for which the employee is qualified for reassignment.
- The agency has issued a decision under 5 CFR Part 432 or 752 (or equivalent procedures for an employee not covered by these procedures) to remove the employee because of deficient performance, conduct, or attendance.

NOTE: The agency must file the retirement application with OPM before the employee is separated from service. See section 60A3.1-3, paragraph C.

- The employee is institutionalized, or based on a review of medical documentation and other documentation, the agency concludes that the employee is unable to file the application for disability retirement.
- The employee has no personal representative or guardian.
- No immediate family member is willing to file the disability retirement application on behalf of the employee.

NOTE: If the agency has no medical evidence as to the employee's condition and the employee will not voluntarily provide medical documentation or cooperate in its collection (including a medical examination directed or offered under 5 CFR Part 339), the agency will not have a medically documented basis to file a disability application.

The agency should place a statement in the OPF that describes the agency's attempt to perfect an application and its reasons for believing that such an application appeared to be appropriate.

B. Decision to Remove Must Be in Writing

1. The decision to remove the employee must be in writing and must follow the guidelines prescribed by whichever regulation, or other authority, the agency used to separate the employee.

Section 60A3.1-2 Application Filed by Agency (Cont.)

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| B. Decision to Remove Must Be in Writing (Cont.) | <p>2. The removal decision letter, the agency-filed application for disability retirement, and the other supporting documentation must be sent to:</p> <p style="text-align: center;">Office of Personnel Management
Retirement Operations Center
Boyers, PA 16017</p> |
| C. Employee Must Be Separated | <p>While the individual must be employed when the agency files the application, OPM will not process and issue an initial decision on the agency-filed disability application until the employee is actually separated. Accordingly, the agency must send a copy of the personnel action showing the separation (such as, an SF 50, Notification of Personnel Action, or an equivalent personnel form) to OPM at the address noted in paragraph B.</p> <p>OPM will also accept the final SF 2806 (Individual Retirement Record) as proof of separation.</p> |
| D. Separation Canceled | <p>If the separation is overturned by a third party (such as the MSPB or a court), then the retirement will be canceled.</p> |
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Section 60A3.1-3 Time Limit on Filing the Application

A. General Rule

1. A claim for disability retirement may be filed with OPM before the employee is separated.
2. A separated employee must apply within 1 year after separation. The application must be received by OPM within the 1-year time limit.

NOTE 1: This time limit applies to all who apply for benefits under the disability provisions of CSRS, including separated employees receiving workers' compensation under the Federal Employees Compensation Act (FECA) for work-related injuries. (See part 60A8.)

NOTE 2: A separated employee who submits an application to the former employing agency, rather than with OPM, will meet the filing deadline only if OPM receives the application from the agency within 1 year after the separation.<

**B. Exception:
Employee
Incompetent**

The time limit for executing an application for retirement can be waived only in the case of an employee who is mentally incompetent upon leaving Federal service or who becomes incompetent within 1 year thereafter.

In such a situation, the application will be accepted by OPM if filed within 1 year from the date the employee is restored to competency or a guardian is appointed, whichever is earlier.

**C. When Agency
Files the
Application**

If the agency files an application for the disability retirement of an employee, the application **MUST** be filed with OPM before the employee is separated from service.

Section 60A3.1-4 Multiple Retirement Applications Prohibited

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| A. General Rule | OPM will accept only one disability retirement application from an employee based upon the same circumstances. Thus, once there has been a final denial of a disability retirement application, another new application may not be filed absent a material change in the employee's situation (such as a substantial deterioration of the medical condition). |
| B. Separated Employees | In the case of a separated employee, only one disability application may be filed. |
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Part 60A4 Submitting the Application to OPM**Section 60A4.1-1 Submitting the Application to OPM--General**

- A. Application Forms**
1. The applicant must complete SF 2801, Application for Immediate Retirement, when applying for disability retirement benefits. Any form other than SF 2801 is inappropriate.
 2. The applicant must also complete SF 2824A, Applicant's Statement of Disability.
 3. > **CSRS Offset** applicants (in addition to the above) must apply for Social Security disability benefits. A receipt or notice of approval or disapproval of disability benefits from the Social Security Administration should be submitted with the application for retirement or as soon as possible thereafter. <
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- B. When Application is Filed Through the Agency**
1. A completed SF 2801 should be submitted by the employee, or some other legally responsible person, to the employing agency. See section 60A4.1-1D for procedure for employees separated more than 31 days.
 2. The agency reviews the application for completeness, makes the appropriate certifications in the space(s) provided, and then sends it, along with supporting documents (see section 60A4.1-2, below) to:

Office of Personnel Management
Civil Service Retirement System
Employee Service and Records Center
Boyers, PA 16017
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- C. Disposition of SF 2806**
1. An individual who files an application for disability retirement is usually still a Federal employee. On occasion, however, the employee has been separated before filing for disability retirement, but his or her Individual Retirement Record (SF 2806) has not been sent to OPM.
 2. Whether the employee files for disability retirement before or after separation, the Individual Retirement Record (SF 2806 or preliminary SF 2806) should be completed by the agency (see instructions in Chapter 81, Individual Retirement Records and Registers of Transfers) and sent, along with the application for retirement, to OPM.

Section 60A4.1-1 Submitting the Application to OPM--General (Cont.)

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| C. Disposition of SF 2806 (Cont.) | 3. In cases where the Individual Retirement Record has been sent to OPM before the employee submitted an application for retirement, enter the date and number of the Register of Separations and Transfers (SF 2807) under which it was transmitted in Appendix D (Agency Checklist of Immediate Retirement Procedures) of SF 2801. |
| D. Direct Filing After Separation of at Least 31 Days | <div style="border-top: 1px solid black; padding-top: 10px;">1. An employee who initiates an application for retirement after having been separated from Federal service for a period of 31 days or more must send his or her application and all supporting documentation directly to OPM at the address noted in paragraph B. The application must be received by OPM within one year after separation, unless the employee is incompetent. (See section 60A3.1-3).</div> <div style="padding-top: 10px;">2. The same documentation requirements apply regardless of the fact that a former employee applies after he or she is separated. In other words, the agency must document whether or not the employee's service was deficient and whether or not accommodation and or reassignment were possible at the time of separation. When an application is filed directly with OPM, it will request any necessary information from the agency that has not already been submitted.</div> |
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Section 60A4.1-2 Submitting the Application to OPM--Supporting Documents

A. General

Agencies are encouraged to review potential applications of current employees carefully to assure that they are fully documented before the application is submitted to OPM.

Physicians, occupational health resources, and coordinators for handicapped programs need to be fully involved to assure that all reasonable steps are taken to retain the employee and that sufficient documentation of these attempts is included.

B. Forms

The following documents should be submitted to OPM for all disability retirement applications:

- SF 2824A (Employee's statement of disability)
- SF 2824B (Supervisor's Statement)
- SF 2824C (Physician's Statement)
- SF 2824D (Agency Certification of Reassignment and Accommodation Efforts)

These forms must be used to certify to OPM that all reasonable steps have been taken to retain the employee in the Federal service.

**C. Position Description/
Performance Standards/
Performance Appraisals**

For OPM to make a determination as to the employee's capability to meet the demands of his or her current job or any available vacant job and the potential risks associated with his or her continued employment, the employee's position description, performance standards, critical elements, and latest performance appraisal must be submitted with the retirement application.

D. Checklist

SF 2924E, Disability Retirement Application Checklist, must be used to send the Application for Immediate Retirement (SF 2801) and all supporting documentation to OPM.

Part 60A5 Withdrawing the Application**Section 60A5.1-1 Withdrawing the Application**

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| A. General Rules | <ol style="list-style-type: none"> 1. OPM will honor, without question, the employee's request to withdraw his or her application prior to the date of separation or OPM's decision to allow the claim, whichever is later. On receipt of a withdrawal request, OPM will stop processing the disability claim involved. 2. No further consideration will be given the application unless the employee reapplies in a timely manner and provides the documentation that is required to support a claim for disability retirement. |
| B. Continued Employment After the Application is Withdrawn | <p>Whether the employee will be permitted to continue working in his or her current position, once the disability retirement application is withdrawn, is an agency matter.</p> <p>Agencies are reminded, that they have already certified, in support of the disability application, that the employee is unable to perform critical or essential tasks of the job occupied, that job accommodation is not possible, and that there are no other available vacant positions in the agency to which the employee is qualified for reassignment. It would be inconsistent to retain the employee without some change to the conditions of his or her employment, unless there has been an improvement in the employee's condition.</p> |
| C. Request to Withdraw After Allowance | <p>Once OPM has allowed the disability retirement claim and the employee is separated, the application may not be withdrawn.</p> |
| D. Acceptance of Position at Lower Grade or Pay Level | <ol style="list-style-type: none"> 1. Voluntary acceptance of a position at a lower grade or pay level is deemed to be a withdrawal of an application. (See section 60A2.1-5, paragraph I.) 2. When an employee voluntarily accepts a position at a lower grade or pay level after the application for disability is sent to OPM, the employing agency must immediately notify OPM. On receipt of the voluntary placement notice, OPM will cease processing the application involved. |

Section 60A5.1-1 Withdrawing the Application (Cont.)

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| D. Acceptance of Position at Lower Grade or Pay Level (Cont.) | 3. To receive any consideration for disability retirement from the accepted, new position after reassignment, the employee must submit another retirement application together with supporting documentation showing that the disability retirement criteria are met in the new position. |
| E. Non-Disability Retirement Application Filed Subsequent to Application | Filing a nondisability retirement application subsequent to the disability application, but prior to allowance of the disability application or separation from the service (whichever is later), is deemed to be a withdrawal of the disability application. The only exception is when the medical evidence indicates that the applicant is incompetent. |
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Part 60A6 OPM Review**Section 60A6.1-1 Criteria for Disability Retirement Determination**

A. General

A determination of disability is made only when the information submitted along with the application for disability retirement indicates that there is a service deficiency, caused by disease or injury, of sufficient degree to preclude useful and efficient service by the employee.

OPM will allow a disability retirement claim only if the submitted documentation clearly and specifically meets the criteria outlined in section 60A2.1-1, paragraph B.

Section 60A6.1-2 Initial Decision

A. General

When all documentation is evaluated, OPM's Disability Division will issue a decision either allowing or disallowing the disability application.

1. Allowance of an application means that the application and supporting documents meet the criteria for disability retirement.
2. Disallowance of an application means that the application and supporting documentation do not meet the criteria for approval. Disallowance of an application does not mean that the employee may not be disabled or that the agency may not have a problem situation to resolve. It simply means that documentation does not show that the criteria for disability retirement have been met.

Notice of either an allowance or a disallowance decision will be sent to both the employee and the agency. The agency must file a notice of allowance in the Official Personnel Folder in accordance with instructions contained in The Guide to Personnel Recordkeeping (formerly FPM Supplement 293-31). On receiving notice of allowance, the agency must not delay in establishing a date of separation in consultation with the employee.

B. Use of Annual Leave

Continuation on terminal annual leave is generally inappropriate (34 Comp. Gen. 61) when it is known that the employee is to be separated. (See also 24 Comp. Gen. 511.) If the employee is on annual leave, he or she should be separated as soon as practical, but usually not later than the end of the pay period in which the notice of approval is received.

NOTE: If the employee is the recipient of donated or transferred annual leave, OPM's leave regulations (5 CFR 630.910) provide that he or she may not use this leave for any purpose past the end of the pay period during which the notice of allowance is received.

C. Use of Sick Leave

1. If the employee has sick leave to his or her credit, the agency should consult with the employee to determine whether he or she wants to use any or all of the sick leave, or whether he or she wants to be separated immediately and have the sick leave used to extend his or her length of service in the annuity computation.

Section 60A6.1-2 Initial Decision (Cont.)

- C. Use of Sick Leave (Cont.)** 2. The employee should either request that he or she be placed on sick leave immediately or be separated not later than the end of the pay period in which the notice of allowance is received.

Disability applicants who request sick leave must furnish the same evidence of incapacitation as any other employee who requests sick leave.

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- D. Leave Without Pay (LWOP)** If the employee is on leave without pay (LWOP), the agency should consult with the employee to select the date of separation that is most desirable or advantageous. The date selected should be no later than the end of the pay period in which the allowance notice is received. It may not be retroactive. (See The Guide to Processing Personnel Actions, formerly FPM Supplement 296-33, for guidelines on establishing effective dates.)
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Section 60A6.1-3 Reconsideration and Appeal

A. Reconsideration

Generally, an employee whose application is disallowed may request reconsideration of OPM's initial decision.

1. The reconsideration request must be in writing and must be received in OPM within 30 calendar days after the date of the initial decision.
 2. A notice of initial decision gives full instructions on how to request reconsideration.
 3. When an employee requests reconsideration of the initial decision, OPM reviews the employee's retirement file and any additional evidence submitted with the request for reconsideration.
 4. A final written decision is issued to the employee and to the agency involved.
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B. Appeal

An employee may appeal an OPM decision to the Merit Systems Protection Board (MSPB) in the following circumstances:

1. The appeal must be filed with the MSPB within >35< days of the date of the reconsideration decision. A decision gives full instructions on how to appeal the decision to the appropriate field office of the MSPB.
2. Under unusual circumstances, a decision is initially issued at the highest level of review available within OPM. That decision is not subject to reconsideration, and the employee has an appeal right directly to the MSPB.

NOTE: An agency may appeal a denial of an agency-filed disability application.

Part 60A7 Continuation of Disability Annuity**Section 60A7.1-1 Periodic Medical Reviews to Determine Recovery from Disabling Condition**

- A. General Rule** OPM has the right to request that a disability annuitant provide current medical information and/or undergo reexamination annually until the annuitant reaches age 60. OPM may request such information from the annuitant as it deems necessary to determine whether he or she has recovered from the disabling condition(s) present at retirement.
- NOTE 1: A disability annuitant age 60 or over may request that he or she be found recovered from the disability.
- NOTE 2: The annuitant is responsible for paying the expenses incurred in complying with OPM's request for medical evidence.
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- B. Failure to Respond to Request for Medical Information** If an annuitant fails to respond to OPM's request for new medical information, payment of the annuity may be suspended until eligibility for continuance of the disability is satisfactorily established.
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- C. When Employee Recovers From Disabling Condition** If, on review of current medical documentation, a disability annuitant is found by OPM to be recovered from the disabling condition(s) present when he or she retired, the annuity of the disability retiree will be discontinued 1 year from the date of the medical examination on which the OPM recovery finding is based, or upon his or her reemployment in the Federal service, whichever occurs first.
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- D. Priority Referral Upon Recovery** If a disability annuitant is found recovered, he or she may be eligible for priority referral under the >Interagency Career Transition Assistance Plan for Displaced Employees<. "Priority referral" does not mean that the former agency must or will offer the individual his or her former position or place them in another position. It simply means that all Federal agencies will consider the individual for placement if there are vacancies for which he or she is qualified.
- To exercise this right, the annuitant >must apply directly to agencies for specific vacancies<. The individual may apply at any time after receiving a notice of recovery from OPM, but no later than >1 year< after the annuity has been terminated.
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Section 60A7.1-2 Restoration to Earning Capacity

- A. General Rule** Each disability annuitant who is under 60 years of age must report to OPM his or her annual income from wages and/or other self-employment.
- If an annuitant fails to respond to OPM's request for earning information, OPM will suspend annuity payments until the annuitant's entitlement to continued annuity payments is established.
- B. Earnings Limitation** Earning capacity is considered restored if, in any calendar year, the annuitant's income from wages or self-employment or both equals at least 80 percent of the current rate of pay for the position occupied immediately prior to retirement.
- NOTE: Before January 1, 1983, the test period to see whether a disability annuitant has been "restored to earning capacity" was 2 succeeding calendar years.
- C. Earnings Defined** "Earnings," for purposes of the 80-percent earnings limitation, includes all income from wages and self-employment actually received, plus deferred income that was earned during the calendar year in question.
- "Earnings" does not include gifts, pensions/annuities, Social Security benefits, workers' compensation, insurance proceeds, unemployment compensation, rents/royalties not involving or resulting from personal services, interest/dividends not resulting from the annuitants's own trade or business, money earned before retirement, inheritances, capital gains, prizes/awards, fellowships/scholarships and net business losses.
- D. "Annuitant's Report of Income"** Each year OPM sends a questionnaire to disability annuitants under age 60 to determine their earnings for the previous calendar year. This survey form is called the "Annuitant's Report of Income." All disability annuitants under age 60 are required to complete and return the survey form. Failure to do so will result in the suspension of the disability annuity.
- NOTE: OPM's usual practice is to mail the income survey forms to disability annuitants in February each year.
- E. When Restored to Earning Capacity** If, on review of the disability annuitant's annual earnings, OPM finds that the annuitant is "restored to earning capacity," payment of the annuity will be discontinued upon reemployment in the Federal service or at the expiration of 6 months from the end of the calendar year in which earning capacity is restored, whichever occurs first.

Section 60A7.1-2 Restoration to Earning Capacity (Cont.)

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| E. When Restored to Earning Capacity (Cont.) | EXAMPLE: If an individual's income in 1989 exceeded 80-percent earnings limitation, the disability annuity stopped on June 30, 1990. |
| F. National Guard Technicians | <hr/> In addition to the provisions of paragraphs A and B, the annuity of a National Guard technician who retired under the special disability retirement provisions (which apply when an individual is separated from the National Guard due to disability, but does not meet the regular disability retirement requirements) terminates on the date he or she is appointed to any position in any agency of the government, or declines an offer of appointment to a vacant position in any agency of the government that is within the commuting area of his or her former position and is at the same or equivalent grade level. <hr/> |
| G. Priority Referral Upon Restoration to Earning Capacity | <p>If a disability annuitant is found restored to earning capacity, he or she may be eligible for priority referral under the Displaced Employee Program. "Priority referral" does not mean that the former agency must or will offer the individual his or her former position or place them in another position. It simply means that all Federal agencies will consider the individual for placement if there are vacancies for which he or she is qualified.</p> <p>To exercise this right, the annuitant should contact his or her former agency or nearest OPM area office. The individual may apply at any time after receiving a notice of restoration to earning capacity from OPM, but no later than 90 days after the annuity has been terminated.</p> <hr/> |

Part 60A8 Election Between Disability Retirement Annuity and Worker's Compensation Benefits**Section 60A8.1-1 Benefits to the Employee**

A. Employee Should Apply for Both OWCP Benefits and CSRS Annuity

An employee may be eligible for both a CSRS annuity and worker's compensation benefits. Whether or not the employee may receive the benefits concurrently depends on the type of compensation paid by the Department of Labor's Office of Workers' Compensation Programs (OWCP). (See paragraphs B and C below.)

However, it is essential that the employee apply for retirement and workers' compensation benefits simultaneously, even if it is apparent that workers' compensation benefits would be higher. Apply for disability retirement protects --

1. The rights of the employee in situations in which OWCP cuts back or eliminates worker's compensation benefits; and
2. The rights of potential survivors to benefits in the event of the employee's death. (See section 60A8.1-2 below.)

NOTE 1: Application for or award of workers' compensation benefits does not extend the 1-year time limit for filing a disability retirement application after separation from Federal service.

NOTE 2: For information on the treatment of reemployed annuitants who received compensation in past periods, see Chapter 100, Reemployed Annuitants, and 102, Relationship Between Annuity and Compensation for Work-Related Injuries and Diseases.

B. Effect of Non-Scheduled Award on the Annuity

OWCP will pay an eligible employee compensation for loss of earnings. This form of compensation is a "non-scheduled award." If the employee receives a non-scheduled award, he or she may not receive a disability annuity and workers' compensation benefits simultaneously. The employee may elect the benefit that provides the greater advantage.

C. Effect of a Scheduled Award on the Annuity

OWCP will pay an eligible employee compensation for the loss or loss of the use of a body part. This form of compensation is a "scheduled Award." An employee who receives a scheduled award may concurrently receive a disability annuity.

NOTE 1: As a non-scheduled award, a scheduled award is paid over a period of weeks. However, the number of weeks over which

Section 60A8.1-1 Benefits to the Employee (Cont.)

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| C. Effect of a Scheduled Award on the Annuity (Cont.) | <p>the award is paid is specified by statute. In rare instances, a scheduled award may be paid in one lump sum.</p> <p>NOTE 2: A scheduled award supersedes a non-scheduled award. Therefore, if any employee is awarded both a scheduled award and a non-scheduled award, the scheduled award is paid first. A disability annuity may be paid concurrently with this benefit.</p> <p>When the scheduled award terminates, the non-scheduled award will commence. Once the non-scheduled award begins, the annuity must terminate or be suspended.</p> |
| D. Other Exceptions to Bar Against Dual Compensation | <p>In addition to scheduled awards, the general bar against receipt of a CSRS annuity and workers' compensation benefits is subject to the following exceptions:</p> <ol style="list-style-type: none"> 1. An employee receiving workers' compensation benefits on account of the death of another person may also receive an annuity on the basis of his or her own service. 2. Employees who have received a lump-sum payment in commutation of a nonscheduled compensation award may elect to receive a CSRS annuity. However, they must refund to the Office of Workers' Compensation Programs, Department of Labor, any portion of the lump sum that is based on any period extending beyond the effective date of the election to receive annuity. (The Department of Labor determines the applicable period.) 3. A person eligible for both a CSRS annuity and compensation for work injuries, whose compensation is suspended because he or she received a financial settlement from the party directly responsible for the injury, may, since he or she is not in receipt of workers' compensation, be paid an annuity during the compensation period covered by the third party settlement. |
| E. When OWCP Benefits Terminate | <p>If an annuitant elects to receive workers' compensation payments, the annuity is suspended during the period the person is receiving compensation. If workers' compensation benefits are discontinued for any reason, the annuitant is entitled to begin receiving the annuity upon notifying OPM of the termination of OWCP benefits.</p> |

Section 60A8.1-1 Benefits to the Employee (Cont.)

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| F. When Employee Does Not Apply for Retirement | An individual who elects to receive OWCP benefits in lieu of retirement annuity, or does not apply for retirement, is eligible to obtain a refund of his or her lump-sum credit upon separation from Federal employment. However, if the former employee applies for and receives a refund, his or her right to an annuity and the right of his or her survivors to civil service annuity benefits are lost unless the employee is subsequently reemployed and establishes a new annuity right based upon the subsequent service. |
| G. Notify OPM When Benefit Changes | <p>If an individual is receiving workers' compensation benefits, he or she must promptly notify OPM of any change in the reason for the compensation award (for example, the benefit is changed from a scheduled award to a nonscheduled award).</p> <p>The individual will be liable for any overpayment of annuity that occurs due to dual payment of benefits while he or she is receiving a nonscheduled award.</p> |
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Section 60A8.1-2 Benefits to the Surviving Spouse

**A. General Rules
Applicable to
Deceased
Annuitants**

1. Survivor benefits are payable under workers' compensation only if the employee's death is caused by the injury for which compensation is being or could be paid.
2. A surviving spouse who is not eligible for death compensation benefits from OWCP may receive CSRS survivor annuity benefits (provided he or she is otherwise eligible), if the former employee had applied for and been awarded retirement even if the annuity was suspended for receipt of compensation. However, the law prohibits concurrent receipt of death compensation and survivor annuity benefits. Like the employee, the survivor must elect which of the two benefits he or she wishes to receive.

EXCEPTIONS: An eligible survivor may receive a "scheduled award" or a third party settlement and survivor annuity covering the same period of time.

3. If the former employee was receiving workers' compensation benefits but had not made timely application for disability retirement, no retirement survivor annuity can be paid.
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Part 60A9 Advice to Employee**Section 60A9.1-1 Reemployment in Federal Service**

A. General

A disability annuitant may be reemployed in any position for which he or she is qualified. However, the law does not require the former agency or any other Federal agency to automatically offer a position.

How Federal reemployment will affect receipt of disability retirement benefits in general is discussed in the paragraphs that follow. See Chapter 100 for a detailed discussion of how reemployment affects the retiree's annuity and pay.

B. When Reemployment Terminates Disability Annuity

1. If the annuitant is under age 60 and reemployed in a position equivalent in tenure and pay to the position from which he or she retired, the annuitant will be found recovered from the disability. Annuity payments will stop when this finding is made.
 2. If the annuitant is under age 60 and the annuity is being paid temporarily after the individual was found recovered or restored to earning capacity, disability annuity payments will stop on the date the annuitant is reemployed in the Federal service, regardless of the type of appointment.
-

C. When Reemployment Does Not Terminate Disability Annuity

1. An annuitant under age 60, who is not found recovered or restored to earning capacity by OPM, may continue to receive a disability annuity when reemployed in the Federal service if he or she is --
 - Reemployed in a position of different tenure (such as temporary versus permanent);
 - Reemployed at a lower grade or pay level than the position from which the individual retired; or
 - Reemployed with a lesser tour of duty than that which the employee had at retirement.

For the period of reemployment, the disability annuity continues and the salary is offset by the amount of the annuity applicable to the period of reemployment.

NOTE: The 80-percent earnings limitation (see section 60A7.1-2) applies to the gross salary, not the reduced salary amount.

Section 60A9.1-1 Reemployment in Federal Service (Cont.)

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| C. When Reemployment Does Not Terminate Disability Annuity (Cont.) | <p>2. If the individual is age 60 or older at the time of reemployment, disability annuity payments continue and the salary amount is reduced by the amount of the disability annuity. However, no earnings limitation applies.</p> <p>If the individual is age 60 or older and is employed in a permanent position with a salary equal to or greater than the salary of the position from which he or she retired, the individual will not be found recovered, by OPM, unless he or she requests that such a finding be made.</p> |
| D. Future Annuity Rights Based on Reemployment | <hr/> <p>1. A reemployed disability annuitant who is not found recovered or restored to earning capacity may earn a supplemental annuity, after one year or more of actual continuous full-time reemployment service, or its part-time equivalent, or a redetermined annuity, after 5 years of actual, continuous full-time employment, or its part-time equivalent. (See Chapter 100.)</p> <p>2. A reemployed disability annuitant who has been found recovered or restored to earning capacity may be entitled to reinstatement of his or her disability annuity if he or she has not earned a new annuity right, either immediate or deferred, based on the period of reemployment. (See section 60A9.1-2.)</p> <p>3. Future annuity rights, either immediate or deferred, are otherwise determined by the general provisions of the retirement law in effect on the date of the employee's separation from service.</p> <hr/> |

Section 60A9.1-2 Reinstatement of Disability Annuity

- A. General** A disability annuity can be reinstated at the same rate in effect when it was terminated if the annuitant meets the conditions outlined in the paragraphs below.
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- B. Reinstatement After Termination Due to Recovery** If the disability annuity stopped because the annuitant was found recovered from his or her disability, the annuity may be reinstated as of the date of a current medical examination showing that the disability for which the individual retired has recurred, provided the annuitant --
- Is not currently reemployed in a position subject to retirement coverage; and
 - Has not established new title to annuity, either immediate or deferred, due to reemployment after termination of the disability annuity (see paragraph E);
 - Is not age 62 or older (if the individual is age 62 or older, he or she is eligible for a deferred annuity); and
 - Is not restored to earning capacity.
-
- C. Reinstatement After Termination Due to Restoration to Earning Capacity** If the disability annuity stopped because the annuitant was found restored to earning capacity, the annuitant may be reinstated effective the first of the year following any calendar year in which the annuitant's earning capacity falls below the 80-percent limitation, provided the annuitant --
- Is not currently reemployed in the Federal service in a position subject to retirement coverage;
 - Has not established new title to annuity, either immediate or deferred, due to reemployment after termination of the disability annuity (see paragraph E);
 - Is not age 62 or older; and
 - Is not medically recovered from the disability for which he or she retired.
-

Section 60A9.1-2 Reinstatement of Disability Annuity (Cont.)**D. Effect of
Reinstatement on
Other
Retirement
Benefits**

Reinstatement of a disability annuity terminates the right to any other annuity based on the same service unless the individual makes a written election to receive the other annuity instead of the disability annuity.

EXAMPLE: Frank's disability annuity is stopped because he was restored to earning capacity. He is deemed to be involuntarily separated on the date the annuity stops. Because he is age 52 and had 21 years of service, he is entitled to a discontinued-service retirement based on the deemed separation. (See section 60A9.1-3.) In the next calendar year, Frank's earnings fall below the 80 percent limitation. Since Frank is not currently employed by the Federal government and not medically recovered, and since his discontinued service annuity is not due to reemployment after termination of his disability annuity, he is eligible for reinstatement of his old disability annuity. (See paragraph C.) Since his old disability annuity is larger than his discontinued service annuity, Frank elects reinstatement.

**E. Effect of Meeting
the "One-Out-of-
Two"
Requirement**

If a disability annuitant is found recovered or restored to earning capacity, the disability annuity cannot be reinstated if, after the annuity stops, the individual subsequently separates from Federal service with at least 1 year of Federal service subject to CSRS within the preceding 2-year period. A period of separation while the employee was in receipt of OWCP benefits is not included in computing this one-year period. An employee who separates after meeting the "one-out-of-two" requirement is entitled to the retirement benefits for which he or she qualifies based on that separation (for example, disability retirement, deferred retirement, voluntary retirement, etc.).

However, a reemployed former disability annuitant who becomes disabled again before meeting the "one-out-of-two" requirement may apply to have the former disability annuity reinstated.

Section 60A9.1-3 Annuity Rights Upon Termination of Disability Annuity When Not Reemployed

A. General

If an annuitant's disability benefits are terminated because he or she recovered from the disability or was restored to earning capacity, and the individual is not reemployed in a position subject to the retirement system, he or she is deemed involuntarily separated as of the date the annuity terminates, and may qualify for an annuity based on that deemed separation. The various situations in which an annuity may be payable are discussed below.

NOTE: Although the individual is deemed to be involuntarily separated, he or she does not receive service credit for the period of time he or she was an annuitant, except for those portions of the period when he or she was actually employed.

B. When a Discontinued Service Annuity is Payable

A discontinued service annuity begins the day after the disability annuity stops if --

- The annuitant is at least age 50 when the disability annuity stops and has at least 20 years of service; or
 - The annuitant, regardless of age, has 25 or more years of service.
-

C. When a Voluntary Annuity is Payable

An immediate voluntary annuity begins the day after the disability annuity stops if the individual meets the applicable age and service requirements. (See Chapter 41, Voluntary Retirement Based on Age and Service.)

D. When a Deferred Annuity is Payable

A deferred annuity begins at age 62 if the individual is not qualified for an immediate annuity as described in paragraphs B and C.

E. Computation of Subsequent Annuity

While a disability annuitant found recovered or restored to earning capacity is entitled to an immediate or deferred annuity, it usually is not at the same rate. The new annuity is computed based upon the same average salary used in computing the disability annuity with no adjustment for increases in the cost of living for the period after the individual originally retired on disability. If the disability annuity was computed under the guaranteed minimum annuity computation, only actual service is used in the computation of the new annuity, resulting in a lower percentage of the high-3 average salary than in the original disability annuity computation.

Section 60A9.1-4 Miscellaneous

A. Optional Retirement Versus Disability Retirement

Some employees are under the mistaken belief that it is generally more favorable to retire on disability than to retire optionally. In actuality, an employee eligible for regular optional retirement is entitled to annuity at the same rate whether disabled or not. There are, however, additional concerns important to disability annuitants both before and after retirement of which the employee should be aware.

- Even if eligible for optional retirement, an applicant for disability retirement must prove eligibility through medical and other evidence.
- A disability annuitant under age 60 must provide annual earnings reports, and the annuity is subject to termination if the annuitant is restored to earning capacity.
- A disability annuitant under age 60 must provide medical evidence at his or her own expense, and the annuity is subject to termination if the annuitant is found to be recovered.
- A disability annuitant who was also eligible for optional retirement would generally be entitled to an immediate annuity if found recovered or restored to earning capacity (see note below); however, the new annuity would be computed based upon the same average salary used in computing the disability annuity with no adjustments for increases in the cost of living for the period after the individual originally retired on disability.
- Unless an individual is permanently and totally disabled for all work, Federal income tax provisions no longer offer preferential treatment for disability retirement over optional retirement. Any employee having questions related to Federal tax treatment of retirement benefits should be directed to consult with the Internal Revenue Service.
- Disability retirees are not eligible to elect the alternative annuity.
- A disability annuitant must make a redeposit of refunded contributions plus interest to receive credit in a CSRS annuity computation for the service covered by the refund. In contrast, an optional retiree who fails to redeposit a refund for a period of service ending before October 1, 1990, will receive credit for the service (subject to a reduction in the annuity based upon the amount of the redeposit due).

If an employee is eligible for early voluntary retirement, disability retirement may offer a higher annuity rate, so both benefits should be

Section 60A9.1-4 Miscellaneous (Cont.)**A. Optional Retirement Versus Disability Retirement (Cont.)**

computed. There may also be circumstances where non-Federal benefits or taxes are affected by disability retirement. An employee who believes that non-Federal benefits will be affected by a choice of retirement provision should be advised to seek advice from the authorities responsible for the benefit.

NOTE: A disability annuitant who, at the time of recovery or restoration to earning capacity, is employed by the Government under an appointment subject to retirement coverage is not entitled to an immediate annuity. His or her future annuity rights would be determined at the time of separation from employment (see sections 60A9.1-1 and 60A9.1-2 for further information on the effects of reemployment in the Federal service).

B. Commencing Date of Annuity

A disability annuity commences, at the employee's option, on the date **after**:

1. Separation from service; or
2. Pay ceases and the employee meets the requirements for title to an annuity.

Unless otherwise requested, OPM will begin the annuity under option 2 because, under most circumstances it will be to the employee's advantage to do so.

NOTE: If the last day of pay is used to trigger the annuity commencing date, then the last day of pay is also the last day of service that can be credited in the annuity computation.

EXAMPLE: Jim had at least 5 years of creditable civilian service at the time he filed for disability retirement on March 13, 1991. After his sick leave expired on April 21, 1991, he went into a LWOP status. Jim was separated from the agency's rolls on May 18, 1991, upon approval of his application for disability retirement. Jim may choose to have his annuity commence on April 22, 1991 (the day after the day Jim's pay ceased), or May 19, 1991 (the day after Jim's separation from service).

C. Taxation of Disability Benefits

Disability retirement benefits are generally subject to Federal income taxation.

Section 60A9.1-4 Miscellaneous (Cont.)

- C. Taxation of Disability Benefits (Cont.)** For complete information about Federal tax and Federal annuities, the agency should refer employees to the Internal Revenue Service. IRS Publication 721, "Comprehensive Tax Guide to U. S. Civil Service Retirement Benefits" can be obtained from local IRS offices.
-
- D. Filing for Social Security Benefit** The agency must tell the **CSRS Offset** employee that he or she is required to apply for Social Security disability benefits and that OPM must receive a receipt or a notice of approval or disapproval of disability benefits from the Social Security Administration (SSA) before the disability annuity can be paid.
- To avoid any delay in processing the Federal disability claim, the employee should submit the SSA receipt/notice with his or her application for retirement or as soon as possible thereafter.
- If for any reason the application for SSA disability benefit is withdrawn, OPM will dismiss the CSRS Offset disability retirement application upon notification by SSA.
-
- E. Filing for Medicare** Since January 1983, Federal employees have been paying the 1.45% Medicare tax thereby giving them eligibility for Medicare. Agencies should advise Federal employees who become disabled before age 65 that if they receive disability benefits for 2 years, they should contact Social Security about applying for Medicare.<
-
- F. Notify OPM of Change of Address** The agency should remind employees that it is important for OPM to have their current address on file. Failure to respond to an OPM request for additional medical information (see section 60A7.1-1) or failure to complete and return the income survey (see section 60A7.1-2) for any reason will result in the suspension of their disability annuity. Notify OPM of a change of address >by calling 202-606-0500< or writing to:

**Office of Personnel Management
Retirement Operations Center
Change of Address - Retirement
Post Office Box 440
Boyers, PA 16017-0440**

The retiree should include his or her retirement claim (CSA) number to ensure that the change is processed promptly.

Subchapter 60B FERS**Part 60B1 General Information****Section 60B1.1-1 Overview****A. Introduction**

Subchapter 60B contains the rules and procedures that apply to disability retirement under the Federal Employees Retirement System (FERS).

This subchapter explains how FERS differs from CSRS. It refers readers to the CSRS rule that applies or gives the FERS rule if it is different.

B. Organization of Subchapter

The FERS subchapter has six parts.

Part	Name of Part	Page
60B1	General Information	52
60B2	Submitting the Application to OPM	56
60B3	Withdrawing the Application	59
60B4	OPM Review	60
60B5	Continuation of Disability Annuity	61
60B5	Advice to Employee	62

C. Applicable CSRS Provisions

The following sections and parts of subchapter 60A apply to FERS employees:

- Section 60A1.1-2: Definitions
- Part 60A2: Disability Criteria
- Part 60A3: Filing the Application
- Section 60A6.1-1: Criteria for Disability Retirement Determination
- Section 60A6.1-3: Reconsideration and Appeal
- Section 60A7.1-1: Periodic Medical Reviews to Determine Recovery from Disabling Condition

Section 60B1.1-1 Overview (Cont.)

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| C. Applicable CSRS Provisions (Cont.) | <ul style="list-style-type: none">• Part 60A8: Election Between Disability Retirement and Worker's Compensation Benefits |
| D. Statement of Authority | <ul style="list-style-type: none">• Section 60A9.1-1: Reemployment in Federal Service <hr/> <p>This subchapter is based on the laws and regulations cited below.</p> <ul style="list-style-type: none">• United States Code: 5 U.S.C. Chapter 84, Subchapter V• Code of Federal Regulations: 5 CFR Part 844 |
-

Section 60B1.1-2 General Eligibility Requirements

A. General

An employee must meet the following general statutory requirements to be eligible for a disability retirement annuity:

1. The employee must be in a position covered by FERS; and
2. The employee must meet the minimum civilian service requirement.

**B. Disabled While
in a Position
Covered by
FERS**

The employee must have become disabled while serving in a position subject to FERS.

**C. Minimum
Civilian Service**

An employee must have at least 18 months of creditable civilian service to be eligible for a disability retirement.

Creditable civilian service for this purpose includes --

- Service for which full FERS deductions were made and not refunded;
- Nondeduction service (for example, temporary or intermittent service) performed prior to January 1, 1989, if a deposit for such service is made;
- Service for which full Social Security taxes and full or reduced CSRS deductions were taken, if all CSRS deductions were not refunded;

EXCEPTION: If the CSRS deductions were refunded based on an application filed before the employee became covered under FERS, such service is creditable if a FERS deposit is made.

For individuals eligible for a CSRS annuity component --

- Nondeduction service (for example, temporary or intermittent service) subject to CSRS annuity computation rules; whether or not a deposit for such service is made;
- Service for which full CSRS deductions were taken (even if CSRS deductions were refunded and not redeposited).

NOTE: See Chapter 20 for a full description of creditable service.

Section 60B1.1-2 General Eligibility Requirements (Cont.)

**D. Noncreditable
Civilian Service**

The following types of service may not be used in meeting the minimum service requirement under FERS:

- Service performed under FERS for which a refund of FERS deductions was taken;
 - Former CSRS service subject to FERS annuity computation rules for which all CSRS deductions were refunded based on an application filed after the employee became covered under FERS;
 - Former CSRS service subject to FERS annuity computation rules for which all CSRS deductions were refunded based on an application filed before the employee became covered under FERS and for which no deposit was made;
 - Any period of nondeduction service performed before 1989 for which a deposit was not made (unless the service is included in a CSRS component); and,
 - Nondeduction service (for example, temporary or intermittent service) performed on or after January 1, 1989 (unless the service is included in a CSRS annuity component).
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Part 60B2 Submitting the Application to OPM**Section 60B2.1-1 Submitting the Application to OPM--General**

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| A. Employee Responsibility | <ol style="list-style-type: none"> 1. The applicant must complete SF 3107, Application for Immediate Retirement, when apply for disability retirement benefits. Any form other than SF 3107 is inappropriate. 2. The applicant must also complete SF 3105A, Applicant's Statement of Disability. 3. The applicant must apply for Social Security disability benefits. A receipt or a notice of approval or disapproval of disability benefits from the Social Security Administration should be submitted with the application for retirement or as soon as possible thereafter. |
| B. When Application is Filed Through the Agency | <ol style="list-style-type: none"> 1. A completed SF 3107 should be submitted by the employee, or some other legally responsible person, to the personnel office of the employing agency. See section 60B2.1-1D for procedures for employees separated more than 31 days. 2. The agency reviews the application for completeness, makes the appropriate certifications in the space(s) provided, and then sends it, along with supporting documents (see section 60B2.1-2, below) to: <div style="text-align: center; margin-top: 10px;"> Office of Personnel Management
 Federal Employees Retirement System
 Retirement Operations Center
 Boyers, PA 16017 </div> |
| C. Disposition of SF 3100 | <ol style="list-style-type: none"> 1. An individual who files an application for disability retirement is usually still a Federal employee. On occasion, however, the employee has been separated before filing for disability retirement, but his or her Individual Retirement Record (SF 3100) has not been sent to OPM. 2. Whether the employee files for disability retirement before or after separation, the Individual Retirement Record (SF 3100 or preliminary SF 3100) should be completed by the agency (see instructions in Chapter 81) and sent, along with the application for retirement, to OPM. |

Section 60B2.1-1 Submitting the Application to OPM--General (Cont.)

- C. Disposition of SF 3100 (Cont.)**
3. In cases where the Individual Retirement Record has been sent to OPM before the employee submitted an application for retirement, note the date and number of the Register of Separations and Transfers (SF 3103) under which it was transmitted on the Agency Checklist of Immediate Retirement Procedures (SF 3107D) of the Application for Immediate Retirement (SF 3107).
-

- D. Direct Filing After Separation of at Least 31 Days**
1. An employee who initiates an application for retirement after having been separated from the Federal service for a period of 31 days or more must send his or her application and all supporting documentation directly to OPM at the address noted in paragraph B. The application must be received by OPM within one year after separation, unless the employee is incompetent. (See section 60A3.1-3.)

>NOTE: A separated employee who submits an application to the former employing agency, rather than with OPM, will meet the filing deadline only if OPM receives the application from the agency within 1 year after the separation.<

2. The same documentation requirements apply regardless of the fact that a former employee applies after he or she is separated. In other words, the agency must document whether or not the employee's service was deficient and whether or not accommodation and or reassignment were possible at the time of separation. When an application is filed directly with OPM, it will request any necessary information from the agency that has not already been submitted.

NOTE: Since the criteria for Social Security disability benefits are entirely different than those used for retirement, whether the Social Security application is approved or disapproved has no bearing on OPM's consideration of the retirement application, although it may affect the annuity rate. However, the Social Security application may not be withdrawn (see section 60B3.1-1B).

Section 60B2.1-2 Submitting the Application to OPM--Supporting Documents

A. General

Agencies are encouraged to review potential applications of current employees carefully to ensure that they are fully documented before the application is submitted to OPM.

Physicians, occupational health resources, and coordinators for handicapped programs need to be fully involved to ensure that all reasonable steps are taken to retain the employee and that sufficient documentation of these attempts is included.

B. Forms

The following documents must accompany the application for disability retirement.

- SF 3105A (Employee's Statement of Disability)
- SF 3105B (Supervisor's Statement)
- SF 3105C (Physician's Statement)
- SF 3105D (Agency Certification of Reassignment and Accommodation Efforts)

These forms must be used to certify to OPM that all reasonable steps have been taken to retain the employee in the Federal service.

C. Position Description/ Performance Standards/ Performance Appraisals

For OPM to make a determination as to the employee's capability to meet the demands of his or her current job or any available vacant job and the potential risks associated with his or her continued employment, the employee's position description, performance standards, critical elements, and latest performance appraisal must be submitted with the retirement application.

D. Checklist

Use SF 3105E, Disability Retirement Application Checklist, to send the Application for Immediate Retirement (SF 3107) and all supporting documentation to OPM. (See OPM address in section 60B2.1-1, paragraph B.)

Part 60B3 Withdrawing the Application

Section 60B3.1-1 Withdrawing the Application

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| A. Applicable CSRS Provisions | All of the provisions of part 60A5 in the CSRS subchapter apply under FERS. However, there is an additional rule unique to FERS, which is discussed below. |
| B. Effect of Withdrawing the Social Security Disability Application | If the application for Social Security disability benefits is withdrawn for any reason, OPM will dismiss the FERS disability retirement application upon notification by the Social Security Administration. |
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Part 60B4 OPM Review**Section 60B4.1-1 Initial Decision**

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| A. Applicable CSRS Provisions | All of the provisions of section 60A6.1-2 in the CSRS subchapter apply under FERS, with one exception. The exception is noted below. |
| B. Use of Sick Leave | Unused sick leave may not be credited in the computation of a disability annuity under FERS unless the "earned annuity" is used and it has a CSRS annuity Component. |

NOTE: See Chapter 61, Computation of Disability Annuity Benefits, for a discussion of the "earned Annuity" and how it is computed.

Part 60B5 Continuation of Disability Annuity

Section 60B5.1-1 Restoration to Earning Capacity

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| A. Applicable CSRS Provisions | All of the provisions of section 60A7.1-2 in the CSRS subchapter apply under FERS, with one exception. The exception is noted below. |
| B. Military Reserve Technicians | Paragraph G of section 60A7.1-2 explains what happens to the disability annuity of a National Guard technician who is restored to earning capacity. Under FERS, this rule applies to both National Guard technicians and military reserve technicians. |
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Part 60B6 Advice to Employee**Section 60B6.1-1 Reinstatement of Disability Annuity**

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| A. Applicable CSRS Provisions | All of the provisions of section 60A9.1-2 in the CSRS subchapter apply under FERS, with one exception. The exception is noted below. |
| B. "One-Out-of-Two" Requirement Not Applicable | The "1-out-of-2" requirement does not apply under FERS. Consequently, a disability annuitant found recovered or restored to earning capacity may not have his or her disability annuity reinstated if, after the disability annuity stops, the individual is employed in a position subject to FERS. |
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Section 60B6.1-2 Annuity Rights Upon Termination of Disability Annuity

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| A. Applicable CSRS Provisions | The provisions of section 60A9.1-3 of the CSRS subchapter apply under FERS, with three exceptions. The exceptions are noted below. |
| B. When a Regular Voluntary Annuity is Payable | Under FERS, even if based on an involuntary separation, an annuity under a provision for regular voluntary retirement commences on the first day of the month following separation. |
| C. When an MRA + 10 Annuity is Payable | Unless postponed, an MRA + 10 annuity begins on the first day of the month after the disability annuity stops if the individual meets the applicable age and service requirements. (See Chapter 42, MRA + 10 Retirement, section 42A1.1-2.) |
| D. When a Deferred Annuity is Payable | A deferred annuity will begin at age 62 or other appropriate commencing date if the individual meets the applicable age and service requirements and is not qualified for an annuity commencing immediately after termination of this disability annuity. (See section 45B2.1-2, paragraph B in Chapter 45, Deferred Retirement.) |
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Section 60B6.1-3 Miscellaneous

- A. Applicable CSRS Provisions** All of the provisions of section 60A9.1-4 in the CSRS subchapter apply under FERS. However, there are additional points that must be discussed with potential FERS disability retirees.
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- B. Commencing Date of Annuity** The CSRS rule (section 60A9.1-4, paragraph >B<) regarding the commencing date of a disability annuity is the same under FERS. However, in applying the rule, note that the minimum service requirement for establishing title to a FERS disability annuity is 18 months.
- EXAMPLE: Robin began employment on March 22, 1990. She applied for disability retirement on July 21, 1991; at that time she had exactly 1 year and 4 months of creditable civilian service. She used her leave until it ran out on September 5, 1991, and then entered a LWOP status. Robin's disability application was approved, and she was separated from the agency's rolls on October 27, 1991.
- Robin may choose to have her disability annuity start September 22, 1991 (the day after the first day on which she met the 18-month minimum service requirement), or October 28, 1991 (the day after Robin's separation from service).
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- C. Retiree Annuity Supplement** FERS disability retirees are not eligible for the retiree annuity supplement.
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- D. Post-1956 Military Deposit >or Civilian Deposit<** If an employee wishes to pay a post-1956 military deposit, the deposit must be paid before separation (the normal rule) even though the military service may not be used in computing the disability annuity until age 62. >A deposit for creditable nondeduction service or redeposit for refunded service must be paid before final adjudication of the disability annuity.
- NOTE: The actuarial reduction provision for pre 10-1-90 refunds of CSRS contributions (see Chapter 21) is not available for disability retirement, even though the annuity may be recomputed at age 62.<
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- E. Filing for Social Security Benefit** The agency must tell the employee that he or she is required to apply for Social Security disability benefits and that OPM must receive a receipt or a notice of approval or disapproval of disability benefits from the Social Security Administration (SSA) before the disability annuity can be paid.
- To avoid any delay in processing the Federal disability claim, the employee should submit the SSA receipt/notice with is or her application for retirement or as soon as possible thereafter.
- If for any reason the application for SSA disability benefits is withdrawn, OPM will dismiss the FERS disability retirement application upon notification by SSA.